

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 28th day of August, two thousand and six.

PRESENT:

RALPH K. WINTER,
ROSEMARY S. POOLER,
SONIA SOTOMAYOR,
Circuit Judges,

SHANJI LIN,

Petitioner,

-v-

No. 03-4178-ag

IMMIGRATION AND NATURALIZATION SERVICE,*

Respondent.

Appearing for Petitioner:

Peter D. Lobel, New York, NY

Appearing for Respondent:

Tonya L. Shotwell, Department of Justice Attorney,
Asset Forfeiture Division (Karin B. Hopperman,
Assistant United States Attorney, Paul I. Perez, United
States Attorney for the Middle District of Florida, on
the brief), Tampa, FL

* On March 1, 2003, the Immigration and Naturalization Service was reconstituted as the Bureau of Immigration and Customs Enforcement and the Bureau of U.S. Citizenship and Immigration Services, both within the Department of Homeland Security. Monter v. Gonzales, 430 F.3d 546, 548 n.1 (2d Cir.2005).

Petition for review of an order of the Board of Immigration Appeals (BIA).

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the petition be, and it hereby is, **DISMISSED**.

Petitioner Shanji Lin, a citizen of the People's Republic of China, petitions for review from an order of the BIA, dated December 23, 2002, summarily affirming Immigration Judge ("IJ") Sandy Hom's September 12, 2000, denial of his claims for asylum, withholding of removal, and relief under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"). In re Shanji Lin, No. A 78 212 266, aff'g (Immig. Ct. N.Y. City). We assume the parties' familiarity with the facts, proceedings below, and specification of issues on appeal.

We are without jurisdiction to review the IJ's denial of Lin's asylum claim because it was based on the factual determination that Lin did not file his asylum application within one year of entering the United States. See 8 U.S.C. § 1158(a)(3); Xiao Ji Chen v. United States, Dep't of Justice, 434 F.3d 144, 154 (2d Cir. 2006).

We are also jurisdictionally barred from reviewing the denial of Lin's withholding of removal and CAT claims because Lin did not mention either of these claims in his brief to the BIA, and, therefore, failed to exhaust his administrative remedies as to these categories of relief. See 8 U.S.C. § 1252(d)(1). Unlike exhaustion of issues, exhaustion of categories of relief is a jurisdictional requirement. See Lin Zhong v. U.S. Dep't of Justice, No. 02-4882, 2006 U.S. App. LEXIS 20374, at *37 n.17 (2d Cir. Aug. 8, 2006).

Finally, we are similarly without jurisdiction to review the BIA's decision to streamline Lin's appeal pursuant to 8 C.F.R. § 1003.1(e). See Kambolli v. Gonzales, 449 F.3d 454, 463 (2d Cir. 2006).

Accordingly, for the foregoing reasons, the petition for review is DISMISSED. Lin's motion for a stay of removal is DENIED as moot.

FOR THE COURT:
ROSEANN B. MACKECHNIE, Clerk

BY:

DATE: